In the High Court of Uttaranchal at Nainital.
Criminal Revision No. 439 of 2001
(Old No. 356 of 1986)

Rajendra Singh S/o Bhawan Singh

R/o Village Geem Dok Patti Langaur

Talla Tehsil Lansdone District Pauri Garhwal…Revisionist.

Vs.

State of U.P. ..Respondent.

Sri Shekhar Mamgain learned counsel for the revisionist.

Sri A. Rab learned A.G.A. for the respondent.

Date of Judgment: 6-4-2004

Hon'ble Irshad Hussain, J.

This criminal revision is directed against the judgment and order dated 7.2.1986 passed by Sessions Judge Pauri Garhwal in criminal appeal no. 43 of 1985 filed against the judgment and order dated 30-7-1985 passed by the then Munsif Magistrate Lansdowne in criminal case no. 41 of 1985 and modifying the order of sentence and conviction of the revisionist from two years R.I. to six months R.I. and fine of Rs. 5000-00 to Rs. 1000/- and in default of payment of fine to under to R.I. for further there months under section 304-A I.P.C.

2- The learned counsel for the revisionist has only pressed the plea that the sentence awarded is service in the peculiar circumstance of the case and that the ends of justice will be met even if the revisionist is sentenced to the period of sentence already undergone and fine imposed by the appellate court may as such be maintained. In view of it the learned counsel for the revisionist did not challenge the finding of guilt recorded by the learned Magistrate and affirmed by the Sessions Judge, Pauri Gahrwal in criminal appeal.

3- Perusal of the record reveal that it was a case of some accident and evidence was given to the effect that the road where the accident took place was muddy. Considering this aspect of the matter it will be in the interest of justice that the sentence of six months R.I. award by the appellate court may be reduced to the period of sentence already

undergone. It need to be pointed out that the judgment of the appellate court was delivered on 7.2.1986 and the revision against the same was preferred on 24.2.1986 and on that day the order of bail plea was passed. The required bail bonds were thereafter field before the Magistrate concerned and as pointed out the revisionist had been under detention for about one month. Considering the said period of already undergone the sentence awarded by the appellate court may be reduced and modified to the period of sentence already undergone.

4- The revision is partly allowed. The conviction of the revisionist under section 304-A I.P.C. is maintained. The sentence awarded per judgment dated 7.2.1986 of the appellate court is reduced and modified to the sentence of imprisonment already undergone and fine of Rs. 1000/- (one thousand). In default of payment of fine the revisionist shall undergo R.I. for 3(three) months.

5- The revision shall deposit the fine with the Magistrate concerned within a period of 10 days from today. The record be sent back to the court concerned for compliance. The compliance report be submitted in one months.

(Irshad Hussain, J.)

ISB